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TRANSMITTAL FORM

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refs.

Application Number	10/664,513
Filing Date	September 16, 2003
First Named Inventor	Marc K. HELLERSTEIN
Art Unit	1645
Examiner Name	Not Yet Assigned

Attorney Docket Number

416272003700

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	1. PTO Form 1449 (1 page) with 4 of 9 cited references attached
<input checked="" type="checkbox"/> Information Disclosure Statement (3 pages)	<input type="checkbox"/> CD, Number of CD(s) _____	2. Return receipt postcard
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	MORRISON & FOERSTER LLP (Customer No. 20872) Michael R. Ward - 38,651
Signature	
Date	May 25, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 25, 2004 Signature: Christa Carter



PATENT
Docket No. 416272003700
Client Ref. B01-074

CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to: **Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450** on **May 25, 2004**.

Christa Carter
Christa Carter

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Marc K. HELLERSTEIN

Serial No.: 10/664,513

Filing Date: September 16, 2003

For: BIOCHEMICAL METHODS FOR
MEASURING METABOLIC
FITNESS OF TISSUES OR WHOLE
ORGANISMS

Examiner: Not Yet Assigned

Group Art Unit: 1645

SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

Pursuant to 37 C.F.R. §1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Pursuant to the USPTO notice dated July 11, 2003, waiving the requirement under 37 C.F.R. § 1.98 (a)(2)(i) to provide copies of U.S. Patents and U.S. Published Applications, copy of this reference is not

submitted. Copy of foreign document and non-patent literature are submitted herewith. The Examiner is requested to make these documents of record.

This Supplemental Information Disclosure Statement is submitted:

- With the application; accordingly, no fee or separate requirements are required.
- Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required.**
- After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
 - A fee is required. A check in the amount of * is enclosed.
 - A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
 - A Certification under 37 C.F.R. § 1.97(e) is provided below; accordingly; no fee is believed to be due.
- After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
 - A Certification under 37 C.F.R. § 1.97(e) is provided below and a check in the amount of * is enclosed.
 - A Certification under 37 C.F.R. § 1.97(e) is provided below and a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.

Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The information contained in this Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist;

(iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **416272003700**. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 25, 2004

Respectfully submitted,

By: Michael R. Ward
Michael R. Ward
Registration No. 38,561

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Form PTO-1449	Docket Number 416272003700	Application Number 10/664,513
INFORMATION DISCLOSURE CITATION IN AN APPLICATION	Applicant Marc K. HELLERSTEIN	
(Use several sheets if necessary)	Filing Date September 16, 2003	Group Art Unit 1645
	Mailing Date May 25 2004	

U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	11/25/2003	6,653,090	Lopaschuk			
	2.	08/05/2003	6,602,715	Yatscoff et al.			
	3.	07/29/2003	6,599,750	Yatscoff et al.			
	4.	10/22/2002	6,468,802	Yatscoff et al.			
	5.	10/08/2002	6,461,870	Yatscoff et al.			

FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation YES NO

OTHER DOCUMENTS

(including author, title, Date, Pertinent Pages, Etc.)

Examiner Initials	Ref. No.	Title
	6.	Bertani, Roberta et al. "Measurement of Total Body Water (TBW) Through In Vivo Dilution of Tracer Compounds: Use of D ₂ O and its Determination by FT Infrared Spectroscopy." <i>Annali di Chimica</i> 92:135-138, January 2002.
	7.	Jennings, Graham et al. "The Use of Infrared Spectrophotometry for Measuring Body Water Spaces." <i>Clinical Chemistry</i> 45, No. 7: 1077-1081, July 1999.
	8.	Roberts, S. B. "Use of the doubly labeled water method for Measurement of Energy Expenditure, Total Body Water, Water Intake, and Metabolizable energy Intake in Humans and Small Animals." <i>Canadian J of Physiology and Pharmacology</i> , Vol. 67, No. 10: 1190-1198, October 1989.
	9.	International Search Report mailed on April 13, 2004, for PCT application no. PCT/US03/20052 filed on June 25, 2003, 3 pages.

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.